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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,795	11/14/2000	Harold G. Craighead	1153.010US1	8906

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EXAMINER

CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 09/27/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,795

Applicant(s)

CRAIGHEAD ET AL.

Examiner

Jacob Cheu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 14 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 1-61 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1-26, drawn to a system for detecting an analyte having a mass, classified in class 422, subclass 50.
 - II. Claim 27-43, drawn to a method for detecting a pathogen, classified in class 435, subclass 4.
 - III. Claim 44-48, drawn to an array of analyte detectors, classified in class 422, subclass 107.
 - IV. Claim 49-56, drawn to a detector for an analyte, classified in class 422, subclass 105.
 - V. Claim 57-58, drawn to a system for detecting an analyte, classified in class 422, subclass 50.
 - VI. Claim 59-61, drawn to a system for detecting an analyte, classified in class 422, subclass 82.05.
2. Inventions (II) and (I, III, IV, V and VI) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this

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case, the method as claimed in invention II can be practiced by another materially different apparatus, such as an apparatus measuring molecular weight of a compound.

3. Invention I and III-VI are unrelated and distinct inventions. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

In the instant case, the features of a plurality of cantilever beams for an array of analyte detector in invention III are not required by the claims of other group for patentability.

4. Similarly, invention IV, the feature of a processor means for determining a mass of analyte based on a difference between resonant frequencies, is not required by the claims of other groups.

5. Invention V, the feature of having a beam driver in communication with the cantilever beam for vibrating the cantilever beam at a predetermined frequency, is not required by the claims of other groups.

6. Likewise, invention VI, the features of having a light source adapted for projecting a ray of light and vibrating the first end of cantilever beam on a transverse axis at a predetermined frequency, are not required by the claims of other group.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search required for one group is not required for the others, therefore the restriction for examination purposes as indicated is proper.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

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currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Cheu whose telephone number is 703-306-4086. The examiner can normally be reached from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 703-305-3399. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3399.

Jacob Cheu
Examiner
Art Unit 1641

September 13, 2002


LONG V. LE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

09/16/02